

The Texas Natural Resource Conservation Commission (commission) adopts new §114.6 (Low Emission Fuel Definitions), §114.312 (Low Emission Diesel Standards), §114.313 (Designated Alternative Limits), §114.314 (Registration of Diesel Producers and Importers), §114.315 (Approved Test Methods), §114.316 (Monitoring and Recordkeeping Requirements), §114.317 (Exemptions to Low Emission Diesel Requirements), and §114.319 (Affected Counties and Compliance Dates). The commission adopts these revisions to Chapter 114 and to the State Implementation Plan (SIP) in order to control ground-level ozone in the Dallas-Fort Worth (DFW) ozone nonattainment area. Sections 114.6, 114.312, 114.314, 114.316, 114.317, and 114.319 are adopted with changes from the proposed text as published in the December 31, 1999 issue of the *Texas Register* (24 TexReg 11916). Sections 114.313 and 114.315 are adopted without changes and will not be republished.

Subchapter H is renamed to “Low Emission Fuels.” New Division 1 (Gasoline Volatility) includes existing §§114.301, 114.302, and 114.305-114.309 and new Division 2 (Low Emission Diesel) includes new §§114.312-114.317 and 114.319. Subchapter A (Definitions) includes new §114.6.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The DFW ozone nonattainment area, an area defined by Collin, Dallas, Denton, and Tarrant Counties, was originally designated “moderate” under the Federal Clean Air Act (FCAA) Amendments of 1990 (42 United States Code (USC)) and thus was required to attain the one-hour national ambient air quality standard (NAAQS) for ozone by November 15, 1996. As required by the FCAA, the state submitted an attainment demonstration plan in 1994 which projected attainment of the ozone NAAQS by 1996. This plan was based on a volatile organic compound (VOC) reduction strategy. DFW did not attain the

ozone NAAQS in 1996. The United States Environmental Protection Agency (EPA) is authorized to redesignate an area to the next higher classification (“bump up”) if the area fails to attain by the required date. In March 1998, in accordance with 42 USC, §7511(b)(2), the EPA reclassified the DFW area from moderate to serious, based on monitored exceedances of the ozone NAAQS between 1994 and 1996. The reclassification required the state to submit a revised SIP that demonstrates that the ozone NAAQS will be met in DFW by November 15, 1999. Because the DFW area continued to exceed the ozone NAAQS in 1999, the EPA may bump up the area to the severe classification. Regardless, the EPA and 42 USC, §7410 and §7502(a)(2), require the state to submit a revised SIP which demonstrates that the area will attain the ozone NAAQS as expeditiously as practicable. The rules adopted for DFW in this notice are one element of the ozone attainment demonstration SIP for DFW being adopted concurrently in this issue of the *Texas Register*. The commission plans to submit this SIP to the EPA in April, 2000.

In 1996, the commission began to develop new modeling for the DFW area and now is using newer air quality models with improved meteorological and emission inputs. The newer modeling since 1996 shows that reductions of oxides of nitrogen (NO_x) in the DFW area and regionally will be necessary to attain the ozone NAAQS. The current modeling also shows that achieving the ozone NAAQS in the DFW area will require strenuous effort because the area’s rapid growth has resulted in increasing amounts of emissions due to increased levels of activity in the area. The emissions from increased activity are offsetting the emission reductions being achieved from new emission standards applicable to the on-road and non-road engine source categories which dominate the emissions inventory in the DFW area.